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Attorneys for Plaintiff TRUSTEES OF THE  
TRI-COUNTIES WELFARE TRUST FUND

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
AT SAN JOSE

TRUSTEES OF THE TRI-COUNTIES  
WELFARE TRUST FUND,

Plaintiff,

v.

KELVIN HILDEBRAND, INC.,  
HILDEBRAND & SONS TRUCKING, INC.,  
WEST COAST DRAYAGE, HILDEBRAND  
BROTHERS TRUCKING, MORYA  
GULARTE TRUCKING, d/b/a MG  
TRUCKING, and KELVIN HILDEBRAND,

Defendant.

Case No. CV-07-5941 JW

**NOTICE TO DISMISS WITHOUT  
PREJUDICE  
[FRCP 41(a)(1)]**

Pursuant to FRCP 41(a)(1), and no Answer having been served by Defendant Hildebrand & Sons Trucking, Inc., Plaintiff Trustees of the Tri-Counties Welfare Trust Fund hereby dismisses the Complaint against Defendant Hildebrand & Sons Trucking, Inc. **without** prejudice to refile.

Dated: July 28, 2008

Respectfully Submitted,

BEESON, TAYER & BODINE, APC

By: /s/ Teague P. Paterson  
TEAGUE P. PATERSON  
Attorneys for Plaintiff TRUSTEES OF THE  
TRI-COUNTIES WELFARE TRUST FUND

**PROOF OF SERVICE****U.S. DISTRICT COURT CASE NO. CV-07-5941 JW**

I declare that I am employed in the County of Alameda, State of California. I am over the age of eighteen (18) years and not a party to the within cause. My business address is 1404 Franklin Street, 5<sup>th</sup> Floor, Oakland, California 94612. On this day, I served the foregoing Document(s):

**NOTICE TO DISMISS WITHOUT PREJUDICE**  
**[FRCP 41(a)(1)]**

☒ By Mail to the parties in said action, as addressed below, in accordance with Code of Civil Procedure §1013(a), by placing a true copy thereof enclosed in a sealed envelope in a designated area for outgoing mail, addressed as set forth below. At Beeson, Tayer & Bodine, mail placed in that designated area is given the correct amount of postage and is deposited that same day, in the ordinary course of business in a United States mailbox in the City of Oakland, California:

Kelvin Hildebrand, President  
 KELVIN HILDEBRAND, INC.  
 6 Lewis Road  
 Watsonville, CA 95076

Dorothea M. Hildebrand, President  
 HILDEBRAND & SONS TRUCKING, INC.  
 6 Lewis Road  
 Watsonville, CA 95076

Kathleen Espinoza, Office Manager  
 HILDEBRAND BROTHERS  
 TRUCKING  
 635 San Juan Pass Road  
 Corralitos, CA 95076

KELVIN HILDEBRAND  
 6 Lewis Road  
 Watsonville, CA 95076

Diane Hildebrand, Owner  
 WEST COAST DRAYAGE  
 P.O. Box 400  
 Watsonville, CA 95077

☐ By Personal Delivering a true copy thereof, to the parties in said action, as addressed below in accordance with Code of Civil Procedure §1011.

☐ By Overnight Delivery to the parties in said action, as addressed below, in accordance with Code of Civil Procedure §1013(c), by placing a true and correct copy thereof enclosed in a sealed envelope, with delivery fees prepaid or provided for, in a designated outgoing overnight mail. Mail placed in that designated area is picked up that same day, in the ordinary course of business for delivery the following day via United Parcel Service Overnight Delivery.

☐ By Facsimile Transmission to the parties in said action, as addressed below, in accordance with Code of Civil Procedure §1013(e).

I declare that the foregoing is true and correct. Executed in Oakland, California, on this date, July 29, 2008.

/s/Tanya Gatt  
 Tanya Gatt